



COVID -19 EMERGENCY OBSERVATORY  
PAPER OF 10 APRIL 2020

What does *fake news* mean? (An unclear concept and the risk of making things worse)

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# What does *fake news* mean? (An unclear concept and the risk of making things worse)\*

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A renowned university in Maryland is keeping track of the virus effect. It updates the grim tables on a daily basis. It is an important task and, in order to perform it, the university relies on the official data provided by the authorised public bodies in all States. So far, so good.

Is it legitimate to question the data we read? Frankly, some of the figures seem to be unreasonably low (and is that by chance or is it propaganda?). It is worthwhile pointing out, without zeroing in on specific cases, that there are some inconsistencies when it comes to world data.

Let's get this straight: that university conducts some creditable work and does so following objective parameters. But are all those official data always plausible and truthful? Where exactly those data are, or could they coming from – unintentionally – be *fake news*?"

A few days ago, a student asked me what I thought about the fight against *fake news* and if I was willing to be the supervisor of his thesis on the subject. The idea immediately tickled my fancy – as is often the case when students come up with issues that are dear to them. I did think about it, but I caught him wrong-footed when I told him I didn't know where to start from, since the meaning of *fake news* was unclear to me. He stared at me in astonishment and, before he could express his disappointment, I said, "what is the exact perimeter of a piece of *fake news*? When are we outside such perimeter? When are we inside it?". I gave him an example: wouldn't it be misleading to give the truthful piece of news that a renowned politician has spent the night in a clinic that is specialised for treating patients in serious conditions, if we omit the fact that he simply slept next to his sister, who had just undergone surgery, merely to provide some comfort? He was not hospitalised, for he was not ill!

Lots of people find globalisation fascinating: it appears to be boundless, literally. Perhaps it is so even because it embodies the moving, modern desire that limits do not exist. Then, the fact that globalisation entails an exasperated exploitation of manpower and the destruction of the environment clearly takes the back seat.

Lots of people find digitalisation fascinating: it is constantly accelerating. What seems to matter now is not the quality of a product, rather how quickly it is produced and consumed. Then, the fact that digitalisation is wiping out jobs and fuelling the fire of a selfishness that was unknown at the time of the pure capitalistic market, also takes the back seat.

A (declared) freedom is the moment these two factors – globalisation and digitalisation – come together. It is fascinating because it is a boundless, constantly accelerating freedom. Then, the fact that this (declared) freedom results in new “tasks” that promise freedom but “consume” time once again takes the back seat.

In the late twentieth century, sociologist David Harvey (author of *The Condition of Postmodernity*), described the “time-space compression”, indicating the processes that are revolutionising the objective properties of time in such a way as to compel us to modify how we depict the world to ourselves. Not by chance, the history of capitalism has been characterised by a constantly accelerating pace of life, which in turn has led to the overcoming of space barriers.

But we risk losing sight of the sense of reality because of this incessant acceleration and therefore, we risk missing out on the moment of truth, the cornerstone of daily life, the foundations underlying our actions. In other words, the criterion-parameter we use to discern what is from what is not, what is art from what is not, what is the rule and what is its violation, has dissolved.

Take *fake news*, for example. Campaigns are set up to intercept them; studies and research are (generously) funded to devise counterstrategies, but the problem is that we are not able to properly define what *fake news* exactly means. Descriptions abound, and they are often convincing in terms of the goal to be pursued, but they have a political structure rather than a legal one: it's hard to translate them into something concrete. It's a blurry, grey zone.

The tragic risk is that of falling back into the Middle Ages. Such a circumstance would most certainly be somewhat fascinating, if we consider other spheres. Take, for example, the current, reigning hedonistic individualism: that would be simply unconceivable in the Middle Ages. But when it comes to freedom of expression, the Middle Ages didn't really shine.

Back then, witches were summarily tried and burnt alive. Repression was carried out systematically, based on an incrimination not predetermined within its scope. Credit for reversing this view goes to the German natural law of the seventeenth: Samuel Von Pufendorf (*De officio hominis et civis*, 1673 and other writings) built law as a system of coercive commands and a system of autonomous rules, clearly separate from those dealt with by moral theology, thus creating a sphere of freedom consisting of actions that were not explicitly forbidden and concluding that the law, being a sanctioned rule, had to be preliminarily disclosed to the person such rule was thought up for. In a nutshell, the penalty had to be established by a law drafted before the event took place.

Well, *fake news* is often accompanied by the equally cloudy and even more hazardous concept of *hate speech*, a phenomenon which is trying to be repressed with an equally hefty funding (the German federal government has allocated over € 14 million, from 2017 to 2019, to measures aimed at

countering *hate speech*). Back in 1997, the Council of Europe willingly provided a definition (under Recommendation No. R (97) 20): “all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin”. In turn, the federal agency of the German government set up to preserve the constitution (*Bundesamt für Verfassungsschutz*) came up, about a year ago, with a more topical definition. Yet if we read it carefully, we can see it has some shortfalls: “contributions on the Internet (*Beiträge im Internet*) concerning current affairs, which are marked by an emotionality and harshness (*eine Emotionalität und zum Teil auch Schärfe aufweisen*) that go well beyond the free expression of thought (*die jenseits der freien Meinungsäußerung liegen*) and that transcend the threshold of criminally punishable acts (*bei denen die Schwelle zur Strafbarkeit mitunter deutlich überschritten wird*)”. If we look at them carefully, we can see they are circular definitions – and it couldn’t be otherwise, given that the issue is a very slippery one – meaning that they revolve around themselves, they self-define themselves, but they never really unequivocally put the finger on the concept.

*Hate speech* is by no means a novelty, if we look at history. Hateful expressions have always existed: the Medea of Euripides, Seneca the Younger, Dracontius and Anouilh declared her hate with varying intensity; the same goes for Gudrun, figure of the Germanic literature, mentioned in one of Wagner’s works. Their emotions, their anger, are acquired heritage of the western culture – or at least, they were. What would be left of the Iliad if we were to brush aside the baleful wrath of Achilles?

The novelty is that hatred is now stigmatised (perhaps because of Sigmund Freud), hence we must absolutely prevent any misalignment between what is conscious and what is unconscious, which means all inner forms of unrest. Be that as it may, it is safe to say that we lack objective assessment parameters: verbal behaviour is sanctioned even in the absence of a clear, defining framework. Furthermore, the penalty (ranging from the deletion of a post to the shutting down of the channel, and more) is imposed by private subjects, such as the social media. The evaluating categories summarily bring about some drastic verdicts.

The fact that we no longer judge based on conduct objectiveness – rather, on the subjective requisites of the agent – is disquieting. We no longer focus on categories, or criteria and parameters, but on the emotional options of those who judge someone else’s verbal behaviour. The underestimated risk is that, rather than pacifying society, we risk triggering pathogenic dynamics. There is a basic, underlying thought: moving away means exposing yourself to the risk of being accused (often in generic terms) of hatred, hence ostracism.

The expression “I prefer Italian food” is innocent; the expression “as a Catholic, I prefer a purely Catholic rite (namely, not inter-religious)” is understandable; the expression “I am proud to be Austrian” is legitimate (consider sporting events, for example), but the point is that the combination of these three expressions can – in a frenetic society that is accustomed to simplifying evaluation processes – expose the individual who utters the three expressions to three dystopian accusations: intolerance, xenophobia and aggressive nationalism.

Recently, Brussels hosted a conference on computational linguistics (EM-NLP 2018): it ranged from classical disciplines (morphology, phonology, syntax, semantics, entity identification, machine learning) to traditional applications (text translation). Nothing sensational. But there were more delicate applications, such as the analysis of emotions via the social media, the conveying of opinions, controlling how collective opinions are formed and even the surveillance of discriminations and identification of *hate speech*. And this takes us back to the aforesaid dilemma: when does the case for *hate speech* actually materialise? The fear is that we might be re-introducing the crime of opinion.

There is no reasoning whatsoever; emotion reigns supreme. The tragic risk is that of plunging into some sort of dystopian dimension and fleeing from it will be extremely difficult. The pending hazard is that of a single-dimension reality generated by the FOMO syndrome (fear of missing out), the fear of being left outside the social community.

Staying in Germany, it could be useful mentioning the Nazi regime: on 28 June 1935 it amended article 2 of the criminal law, introducing, as a punishable condition (aside from the infringement of the law), even the insult to the “people’s sound sentiment” (*das gesunde Volksempfinden*). That acrobatic leap was indeed disquieting and the violence of judge Roland Freisler in the 1940s confirmed all the worst-case scenario hypotheses. That paragraph marked the passage from *nullum crimen sine lege* (no crime without law), a conquest of the German natural law criminal experts of the seventeenth century, to a terrifying *nullum crimen sine poena* (no crime without punishment). In other words, Pufendorf stated that the theoretical case (the thought of a crime) was to be considered before the concrete case (the actual commitment of the crime). Nazism reversed the concept: the judge could decide, case by case, what was to be considered a crime. Namely, whether the fact could be considered a crime or not was something that was decided after it was committed. The tragic events of the White Rose confirm how serious the context was: the Scholl brothers were arrested in Munich after handing out leaflets at the university. They were judged guilty and killed in a matter of hours, in February 1943. It was Freisler himself who sentenced them to death, based on that law, which granted full discretionary power.

Bottom line: prosecuting *fake news* and *hate speech* in the absence of a clearly defined perimeter is dangerous and could be counterproductive. Freedom of thought is at stake and the risk of a dystopian dimension taking over is too high.

Ask yourselves two, deliberately paradoxical questions, which are simply food for thought: who holds the truth?

Moreover, don’t we have the right to hate?

What will be the next ultra-moral imperative? Will it forbid to love?

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